

84<sup>TH</sup> CONGRESS  
1<sup>ST</sup> SESSION

**H. R. 4513**

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IN THE HOUSE OF REPRESENTATIVES

MARCH 1, 1955

Mr. CELLER introduced the following bill; which was referred to the Committee on the Judiciary

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**A BILL**

To prohibit wiretapping except by a court-authorized Federal officer engaged in the investigation of crimes against the security of the United States.

- 1       *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*
- 2       *That part 1 of title 18 of the United States Code is amended*
- 3       *4 by adding at the end thereof the following new chapter:*

“CHAPTER 119--WIRETAPPING

“Sec.

2501. Interception of telephone communications.
- 5 “§ 2501. Interception of telephone communications
- 6       “(a) Whoever, without prior authorization from either
- 7       the sender or the intended recipient of a telephone communica-
- 8       tion by common carrier, willfully intercepts, or attempts to

1 intercept, or procures or orders any other person to intercept  
2 or attempt to intercept, or conspires with any other person to  
3 intercept, or attempt to intercept, such telephone communica-  
4 tion shall be fined not more than \$5,000 or imprisoned  
5 not more than ten years, or both: *Provided, however,* That  
6 this prohibition shall not apply to any interception of a tele-  
7 phone conversation which is done in compliance with this  
8 section.

9       “(b) Whenever the Attorney General has satisfied him-  
10 self, on the basis of a factual showing made to him by the  
11 head of a Federal agency, that a specified telephone line  
12 interception may obtain evidence of the commission of any  
13 of the crimes specified in subsection (3) of this section, or  
14 that the specified telephone line interception may enable the  
15 Federal Government to prevent the commission of any such  
16 crime, he may so certify in writing and designate in such  
17 certificate any United States Attorney, Assistant United  
18 States Attorney, or officer or attorney of the Department of  
19 Justice to apply for an ex parte court order allowing such  
20 specified telephone line interception. Such certificate shall  
21 also designate the department or agency of the United States  
22 which shall make the telephone line interception, if a court  
23 order is granted.

24       “(1) The application for the ex parte court order al-  
25 lowing the telephone line interception shall be made (A)

1 to any judge of the district court of the United States for  
2 the district within which the wire interception is sought,  
3 or (B), if no such judge is readily available, to any judge  
4 of the district court of the United States for a district con-  
5 tiguous to the district within which the wire interception  
6 is sought, or (C), in any case, to any judge of the United  
7 States Court of Appeals for the District of Columbia Cir-  
8 cuit. Such application shall be supported by the author-  
9 izing certificate of the Attorney General and by such factual  
10 showing as to the facts and circumstances of the application  
11 as the judge on oral examination may require to satisfy  
12 himself that there is reasonable ground to believe that the  
13 requested telephone line interception will result in the pro-  
14 curement of evidence not otherwise obtainable of the com-  
15 mission of, or will enable the Federal Government to prevent,  
16 any of the crimes specified in subsection (C) of this section.  
17 Each application for a court order shall be accompanied  
18 by an affidavit showing whether any previous application  
19 has been made for the order asked for; and, if there has  
20 been a previous application, to what judge it was made  
21 and the determination made thereof, and what new facts,  
22 if any, are shown upon the subsequent application that were  
23 not previously shown. If the judge determines that the  
24 required reasonable ground has been shown, he shall issue  
25 an order allowing the requested telephone line interception.

1    Each such order shall specify the name or names of the  
2    person or persons whose telephone lines are to be tapped,  
3    the exchange numbers of the telephone lines to be tapped,  
4    the crime or crimes as to which evidence is to be obtained  
5    or which are to be prevented, the name of the Federal  
6    agency or department which will make the telephone line  
7    interception, and the period of effectiveness of the order,  
8    which shall be only for as long as the judge determines to  
9    be warranted under the circumstances (which period, how-  
10   ever, shall not exceed ninety days).

11        "(2) Any individual designated by a Federal agency  
12   or department to make telephone line interceptions shall be  
13   a duly appointed investigative officer of the department or  
14   agency of the United States which the Attorney General  
15   has designated to conduct the telephone line interception.  
16   True copies of the court order shall be retained by the judge  
17   who issued the order and by the Attorney General, but  
18   the copy of the application given to the judge shall be  
19   returned to the Attorney General after the judge's action  
20   thereon.

21        "(3) Any court order allowing a specified telephone  
22   line interception may be renewed, for periods not exceeding  
23   ninety days, by the judge who originally issued the order  
24   or by any other judge having jurisdiction, but only on such  
25   an application (including a certificate by the Attorney Gen-

1 eral) and supporting showing as would have warranted the  
2 judge to have issued an original order in the circumstances.

3       “(4) Applications for an ex parte judicial order allow-  
4 ing telephone line interceptions (or for a renewal thereof)  
5 shall be heard by the judge alone, in his private chambers  
6 or in the most readily available private place, without the  
7 presence of anyone other than the judge and the individual  
8 who presents the application (and any witnesses he may  
9 bring), and the hearing and order shall be kept strictly  
10 confidential by all parties thereto, except when and as the  
11 Attorney General directs otherwise. The judge's copy of  
12 his order shall be kept by him in a place to which only he  
13 has access.

14       “(c) Telephone line interceptions shall be authorized  
15 under subsection (2) of this section only to obtain evidence  
16 of the commission of, or to prevent, one or more of the  
17 crimes punishable under (a) chapter 37 (dealing with  
18 espionage), chapter 55 (dealing with kidnaping), chapter  
19 105 (dealing with sabotage), or chapter 115 (dealing with  
20 treason, sedition, and subversive activities) of this title, or  
21 (b) section 10 of the Atomic Energy Act of 1946.

22       “(d) No evidence obtained directly or indirectly by  
23 means of a telephone line interception, or as a direct or  
24 indirect result of such an interception, shall be received in

1 evidence in any State or Federal court on any matter, civil  
2 or criminal, or in any proceeding of any State or Federal  
3 agency, unless such interception was made in compliance  
4 with this section. Evidence obtained from or as a result  
5 of telephone line interceptions pursuant to this Act shall be  
6 admitted in the Federal courts only in prosecutions for  
7 crimes specified in subsection (c) of this section. Any use  
8 or divulgence by any person or persons of any information  
9 or any evidence obtained directly or indirectly by means  
10 of duly authorized telephone line interceptions for any pur-  
11 pose not in accordance with this section shall be fined not  
12 more than \$5,000 or imprisoned for not more than ten years,  
13 or both.

14 " (e) All of the records made at the time of each and  
15 every actual telephone line interception, made pursuant to  
16 this Act by authorized Federal officers, agents, or employees,  
17 shall be preserved as made, and shall be kept in some central  
18 place, for a period of at least five years. In the event that  
19 evidence based on telephone line interceptions is sought to  
20 be introduced in any proceeding, the party against whom the  
21 evidence is sought to be introduced shall have the right to  
22 inspect the original complete record of the telephone line  
23 interceptions from which the offered evidence was obtained  
24 or transcribed. Evidence obtained by Federal officers,  
25 agents, or employees shall not be admissible in any State or

1 Federal proceeding if the party against whom the evidence  
2 is offered shall not be able to inspect the original complete  
3 record of the telephone line interception from which the  
4 offered evidence was transcribed because that record is incom-  
5 plete or in any way altered from its original form.

6 "(f) The Attorney General shall keep a record of  
7 all requests made to him for applications for an ex parte  
8 court order, of his actions thereon, of the court orders ob-  
9 tained, of the telephone line interceptions conducted there-  
10 under, and of the results thereof. A public report on all  
11 these matters shall be submitted to the Congress every twelve  
12 months, which report shall be as detailed and factual as  
13 security limitations allow. Such reports shall show, re-  
14 garding each application made for a court order during the  
15 period covered by the report: the name of the judge to  
16 whom the application was made, and his location, the crime  
17 or crimes as to which evidence was sought or which were  
18 to be prevented; whether or not the application was granted;  
19 the original duration of any granted orders; the duration of  
20 any renewals; and whether or not any interception resulted  
21 in any prosecution and, if so, the details thereof. Each  
22 report shall be filed on or before February 1 of each year  
23 and shall cover the prior calendar year. No report shall  
24 refer to pending applications or interceptions then in progress.  
25 Succeeding reports shall cumulate from time to time the

1 above-required data on each application where all of the  
2 data on any application is not complete at the time of first  
3 reporting thereon.

4        “(g) Since it is difficult to detect the commission of an  
5 unlawful telephone line interception during the time of its  
6 occurrence, the possession of equipment designed and in-  
7 tended for use in telephone line interception (whether held  
8 for sale, or in private possession, or otherwise, but ex-  
9 cluding possession related to lawful use) by any person  
10 who is not authorized to engage in wire interception shall  
11 be presumptive, although rebuttable, evidence of an in-  
12 tent and attempt to engage in unlawful telephone line in-  
13 terceptions and, if the presumption be not rebutted, shall be  
14 punishable by a fine of not more than \$2,500 or imprison-  
15 ment of not more than five years, or both.

16        “(h) The Attorney General shall have the power to  
17 make and publish rules and regulations applicable to all Fed-  
18 eral agencies to govern the procedure under which requests  
19 and factual showing shall be made to him for an application  
20 for an ex parte court order authorizing telephone line inter-  
21 ceptions. Such rules and regulations may provide that the  
22 Attorney General may delegate his duties and responsibilities  
23 under this Act to the Deputy Attorney General or to an  
24 Assistant Attorney General but not to any other official or  
25 person.

1        "(i) Nothing in this section shall be construed to author-  
2 ize or to make lawful the automatic recording of a telephone  
3 conversation by one or more of the parties thereto, if done  
4 in violation of the applicable rules and regulations of the  
5 Federal Communications Commission.

6        "(j) As used in this section—

7        "(1) The term 'telephone communication' means the  
8 transmission of speech and sounds of all kinds by means of  
9 the telephone.

10       "(2) The term 'telephone line' means all of the facili-  
11 ties, wires, devices, poles, apparatus, and machines and  
12 services by means of which telephone communications are  
13 carried on by a common carrier.

14       "(3) The terms 'intercepts' and 'interception' mean the  
15 obtaining of the whole or any part of a telephone com-  
16 munication by means of any device, contrivance, or machine,  
17 of any kind, but it shall not include eavesdropping on a  
18 party line or any act or practice done in the ordinary and  
19 usual course of business in the operation or use of a common  
20 carrier communications system by regular employees thereof.

21       "(4) The term 'common carrier' means any person  
22 engaged, as a common carrier for hire, in telephone com-  
23 munication (A) in interstate or foreign commerce, (B) in  
24 intrastate commerce, if its communications facilities are  
25 physically connected with the communications facilities of

1 any such carrier engaged in interstate or foreign commerce,  
2 or (C) within the District of Columbia or any Territory or  
3 possession of the United States.

4       “(5) The term ‘person’ includes an individual, partner-  
5 ship, association, joint-stock company, trust, or corporation,  
6 whether private or public, and regardless of public office or  
7 status.”

8       SEC. 2. The proviso contained in section 605 of the Com-  
9 munications Act of 1934 (48 Stat. 1103; 47 U. S. C. 605)  
10 is amended to read as follows: “*Provided*, That this section  
11 shall not apply to the interception, receiving, divulging, pub-  
12 lishing or utilizing the contents of (a) any radio communica-  
13 tion broadcast or transmitted by amateurs or others for the  
14 use of the general public or relating to ships in distress, or  
15 (b) any wire communication intercepted by any individual  
16 in compliance with section 245 of title 18 of the United  
17 States Code.”

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By Mr. Cellier

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